IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2007

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THE HONOURABLE .MR.JUSTICE S.MANIKUMAR

W.P.Nos.26210 and 26211 of 2007

M.B.Abdul ali . Petitioner in both W.Ps.

vs.

1. The Regional Transport Officer cum
Secretary, Regional Transport Authority,
Krishnagiri

2. The District Collector cum
Regional Transport Authority,
Krishnagiri . Respondents in both W.Ps.

Writ petition is filed under Article 226 of the Constitution of India praying for a writ to direct the first respondent to entertain the petitioner's application dated 5.1.2007 and received by the first respondent on 10.1.2007 for the grant of a stage carriage permit for the route, Krishnagiri to Hosur via. Bandarapalli, Shoolagiri, Kamandoddi and Uthangarai to Krishnagiri respectively returned by the first respondent in D.Nis.No.1475/A2/2007 and D.Nis.No.1474/A2/2007 dated 25.6.2007 together with copy of Income tax Pan Card and consequently direct the second respondent to consider the said application in accordance with law and on merits forthwith.

For Petitioner: Mr.N.Gopalakrishnans
For Respondents: Mr.A.Arumugam, AGP

C O M M O N O R D E R

The petitioner seeks for a Mandamus, directing the Regional Transport officer cum Secretary, Krishnagiri/the first respondent to entertain his application dated 5.1.2007, which was received by the first respondent on 10.1.2007 for the grant of stage carriage permit for the routes, Krishnagiri to Hosur via. Bandarapalli, Shoolagiri, Kamandoddi and Uthangarai to Krishnagiri respectively.

2. It is the case of the petitioner that he has submitted an application dated 5.1.2007 to the first respondent for the grant of stage carriage permit for the routes mentioned above with prescribed fee of Rs.2,100/- in each case by way of bankers cheque drawn on Indian Bank, Gandhi Road, Krishnagiri. Though the applications dated 5.1.2007 were received by the first respondent on 10.1.2007, there was no response and therefore, the petitioner sent a reminder on 1.3.2007. The applications submitted by the petitioner were returned by the first respondent on 25.6.2007 on two grounds, i) the fees paid are not in accordance with the mode of payment prescribed in Rule 279 of

the Tamil Nadu Motor Vehicles Rules and ii) Income Tax Assessee pan-card has not been enclosed. Being aggrieved of the return of the applications, the petitioner has filed the present writ petitions.

3. Learned counsel for the petitioner submitted that as per Rule 279 of the Tamil Nadu Motor Vehicles Rules, the fees could be paid to Indian Bank or Indian Overseas Bank or State Bank of India. The payment made by the Bankers Payment order amounts to payment of fee in cash and therefore the same ought to have been accepted by the respondents. Placing reliance on the decision of the unreported decision of this Court in W.P.Nos.18384 and 18385 of 2004 dated 3.9.2004 and referring to Rule 279 of the Tamil Nadu Motor Vehicles Rules, he submitted that the authority has no jurisdiction to return the applications and the same ought to have been entertained. He further submitted that the petitioner has got income tax assessee pan card and he would submit the same before the authority.

5. Considering the limited scope of the prayer in the Writ Petition, Mr.A.Arumugam, learned Additional Government Pleader was put on notice and heard.

6. As per Rule 279 of the Tamil Nadu Motor Vehicles Rules, the fees shall be paid in cash in the Regional Transport Office or in the office of the State Transport Authority or through challan in the Government Sub Treasury or Treasury or through Indian Bank or Indian Overseas Bank or State Bank of India. Therefore only two modes of payment are permitted under the Rules, namely, a) fees shall be paid in cash in the Regional Transport Office or in the office of the State Transport Authority b) through challan in the Government Sub Treasury or Treasury or through Indian Bank or Indian Overseas Bank or State Bank of India. In the instant case, the petitioner has not paid the fees in any one of the modes as provided under Rule 279 of the Tamil Nadu Motor Vehicles Rules. The payment by way of Bankers' cheque is not contemplated under the above said Rule. It is settled legal position that if a thing has to be in a particular manner, Court has no power or jurisdiction to change the manner as provided under the statutory provision. Therefore, I do not find that the first respondent has committed any error in returning the applications of the petitioner for the failure to comply with Rule 279 of the Tamil Nadu Motor Vehicles Rules.

7. Learned counsel for the petitioner submitted that the petitioner would represent the applications along with the prescribed fees in cash and also submit the Income Tax Assessee Pan-card.

8. In view of the above submission, the petitioner is directed to represent the applications dated 5.1.2007 with prescribed fees to be paid in cash and also the Income Tax Assessee Pan-card, within a period of one week from the date of receipt of a copy of this order and on receipt of the said applications, the respondents are directed to pass orders, within a period of eight weeks thereafter.

9. With the above direction, the Writ Petitions are disposed of. No costs.

ajr
Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Regional Transport Officer cum
Secretary, Regional Transport Authority,
Krishnagiri

2. The District Collector cum
Regional Transport Authority,
Krishnagiri

+ 2 ccs to M/s. N. Gopalakrishnan, Advocate SR No. 48408

GK(CO)
SR/6.8.2007

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